

ATTORNEY DOCKET NO. 07038.0004U1  
APPLICATION NO. 10/070,574

### REMARKS

Claims 1-22 are pending in the present application. The Examiner has acknowledged that claims 1, 4-7 and 17-20 are allowed. Claims 2, 3 and 8 are amended herein. Support for these amendments can be found in the claims as filed, on page 10, lines 10-11 of the specification where Applicants have disclosed nucleotides 572-1134 of SEQ ID NO: 1 as a part of nucleotides 1-1134 of SEQ ID NO: 1 which is active as a promoter, and on page 10, lines 12-13, where Applicants have disclosed nucleotides 28-541 of SEQ ID NO: 2 as a part of SEQ ID NO: 2 that functions as a terminator. No new matter is believed to be added by these amendments.

Applicants appreciate the opportunity to telephonically interview this case on January 13, 2006 with Examiner Katcheves. During this interview, the rejection under 35 U.S.C. § 112, first paragraph was discussed. More specifically, the amendments to claims 2, 3 and 8, set forth herein, were discussed. In particular, Applicants discussed amending claims 2, 3, and 8 to recite, in relevant part, "a part of nucleotides 1-1134 of SEQ ID NO: 1 that comprises nucleotides 572-1134 of SEQ ID NO: 1, which is active as a promoter." The Examiner indicated that there was support for this amendment in the specification. Applicants also discussed amending claims 2, 3, and 8 to recite, in relevant part, "a part of SEQ ID NO: 2 that comprises nucleotides 28-541 of SEQ ID NO: 2, which is active as a terminator." Therefore, Applicants have amended the claims, as discussed with the Examiner, to limit and further define a part of nucleotides 1-1134 of SEQ ID NO: 1 to a part comprising a subsequence (nucleotides 572-1134 of SEQ ID NO: 1) that functions as a promoter. Similarly, Applicants have amended the claims to limit a

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part of SEQ ID NO: 2 to a part of SEQ ID NO: 2 that comprises a subsequence  
(nucleotides 28-541 of SEQ ID NO: 2) that functions as a terminator.

In the response filed on May 31, 2005, Applicants briefed the Examiner on the disclosure of nucleotides 571-1134 of SEQ ID NO: 1 as a sequence that functions as a promoter. This was acknowledged by the Examiner on page 4 of the August 24, 2005 Office Action. Furthermore, in the response filed on September 23, 2004, and in the response filed on May 31, 2005, Applicants briefed the Examiner on the disclosure of nucleotides 28-541 of SEQ ID NO: 2 as a sequence that functions as a terminator.

Thus, Applicants believe that no new issues are presented by the above amendments to claims 2, 3 and 8. Also, based on the discussion with the Examiner regarding the limitations of claims 2, 3 and 8, Applicants believe that the amendments made above put the claims in condition for allowance after final.

Rejection under 35 U.S.C. § 112, first paragraph

The Office Action states that claims 2, 3, 8-16, 21 and 22 are rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement.

Although Applicants believe that claims 2, 3, 8-16, 21 and 22 are adequately described, in order to further prosecution and place the claims in condition for allowance, claims 2, 3 and 8 are amended herein as set forth above.

As discussed with Examiner Katcheves, in order to further define the parts of nucleotides 1-1134 of SEQ ID NO: 1 that function as a promoter and the parts of SEQ ID NO: 2 that function as a terminator, claim 2 is amended herein to recite "[a] yeast

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expression system containing in operative junction the nucleotide sequence of SEQ ID No 1, nucleotides 1-1134 of SEQ ID NO: 1 or a part of nucleotides 1-1134 of SEQ ID NO: 1 that comprises nucleotides 572-1134 of SEQ ID NO: 1, which is active as a promoter, an insertion cloning site and the nucleotide sequence of SEQ ID No 2 or a part of SEQ ID NO: 2 that comprises nucleotides 28-541 of SEQ ID NO: 2, which is active as a terminator." Therefore, a part of nucleotides 1-1134 of SEQ ID NO: 1 which is active as a promoter comprises nucleotides 572-1134 of SEQ ID NO: 1, a subsequence disclosed by Applicants as a functional promoter. Similarly, a part of SEQ ID NO: 2 that can function as a terminator comprises nucleotides 28-541 of SEQ ID NO: 2, a subsequence disclosed by Applicants that functions as a terminator. Thus, Applicants believe that the parts of nucleotides 1-1134 of SEQ ID NO: 1 that function as a promoter and the parts of SEQ ID NO: 2 that function as a terminator are adequately defined and described.

Claims 3 and 8 are similarly amended. Therefore, Applicants believe this rejection has been overcome and respectfully request its rejection as it applies to claims 2, 3, 8-16 and 21.

In view of the above amendments and remarks, reconsideration and allowance of the pending claims is believed to be warranted, and such action is respectfully requested. The Examiner is invited and encouraged to directly contact the undersigned if such contact may enhance the efficient prosecution of this application to issuance.

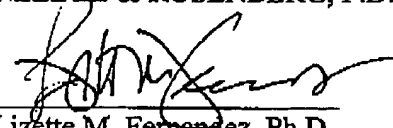
A Credit Card Payment Form PTO-2038 authorization payment in the amount of \$450.00 (Extension of Time fee) and a Request for Extension of Time are included herewith. This amount is believed to be correct; however, the Commissioner is hereby

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authorized to charge any additional fees which may be required, or credit any  
overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

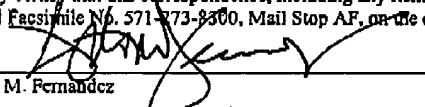
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Date 1/19/06